<u>REMARKS</u>

In the Office Action dated February 5, 2008, claims 1-19 and 28-31 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,606,525 (Muthuswamy) in view of U.S. Patent No. 6,230,233 (Lofgren).

On January 18, 2008, the Board of Patent Appeals and Interferences issued a Decision on Appeal that reversed the prior obviousness rejection over Kriegsman (U.S. Patent No. 6,480,893) in view of Lofgren. The present Office Action substituted a new primary reference (Muthuswamy) in place of Kriegsman in rendering another obviousness rejection of the claims over Muthuswamy and Lofgren. The obviousness rejection of the claims over Muthuswamy and Lofgren is defective for reasons similar to those identified by the Board of Patent Appeals regarding why the rejection of the claims over Kriegsman and Lofgren is defective.

As noted by the Board, Lofgren teaches extending the life of a memory device by wear leveling, but "in Lofgren only the memory blocks are analyzed, with data files being transferred from the most heavily used memory blocks to the lesser used memory blocks." 1/18/2008 Decision on Appeal, p. 7. The Board noted that "there is no mention in Lofgren of analyzing and identifying the files as static or dynamic." *Id.*

In the Board's rationale reversing the prior obviousness rejection over Kriegsman and Lofgren, the Board noted that although Kriegsman classifies files as static or dynamic, Kriegsman used such terms in "addressing a different field of endeavor (storing and transferring web pages vs. counteracting media wear) and focusing on a different problem (speed of communications)." *Id.* at 8.

As with Kriegsman, the new primary reference, Muthuswamy, cited by the Office Action is directed to identifying dynamic and static files in the context of storing and transferring web pages. As discussed in Muthuswamy, web pages can have static data that remains unchanged, such as in a background, and dynamic data which changes on the web page, such as stock quotes or weather. Muthuswamy, 1:20-23. Muthuswamy explains that refreshing a web page that requires a total reload of all data would be slow. *Id.*, 1:38-43. To address this, Muthuswamy discloses a technique that discriminates between static data (data that does not change) and dynamic data (data that changes), and that stores both the static data and dynamic data in a local cache of a user computer. *Id.*, 3:1-18. To do a refresh, dynamic data is retrieved from a website, but static data is not. *Id.*, 3:49-56.

The static data and dynamic data of Muthuswamy are similar to the static data and dynamic data of Kriegsman. Kriegsman teaches that static files are files repeatedly transferred in a network of computer systems without changes, while dynamic files are files that are modified for each transfer in the network. Kriegsman, 1:7-12. Since the teachings of Muthuswamy are similar to the teachings of Kriegsman with respect to static data and dynamic data, and since the concerns of both Kriegsman and Muthuswamy are directed to speed of communications rather than counteracting media wear, the rationale of the Board in reversing the prior obviousness rejection over Kriegsman and Lofgren is equally applicable with respect to the present obviousness rejection of Muthuswamy and Lofgren.

In view of the foregoing, it is clear that the obviousness rejection of the claims over Muthuswamy and Lofgren is defective.

Moreover, the obviousness rejection of the claims over Muthuswamy and Lofgren is further defective for the additional reason that Muthuswamy would have led a person of ordinary skill in the art away from the claimed invention. As taught by Muthuswamy, both the dynamic data and static data are stored in a local cache of a user computer to enable easy merging into the same web page. Muthuswamy, 3:13-16. Thus, rather than hint that it would be desirable to migrate a static file to a dynamic region and a dynamic file to a static region of a read/write storage medium, as recited in claim 1, Muthuswamy teaches the opposite, namely that both the static data and dynamic data are to be stored in the same region: the local cache of the user computer. Since Muthuswamy teaches that it would be desirable to store both static and dynamic data in a common location (the local cache) rather than in different regions of memory, it is respectfully submitted that a person of ordinary skill in the art clearly would not have been prompted to combine the teachings of Muthuswamy and Lofgren to achieve the claimed invention. *See KSR International Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741, 82 U.S.P.Q.2d 1385 (2007) (holding that it is important to identify a reason that would have prompted a person of ordinary skill in the art to combine reference teachings in the manner that the claimed invention does).

In view of the foregoing, it is respectfully submitted that the obviousness rejection of independent claims 1, 13, and 17, and their respective dependent claims, is defective.

Therefore, allowance of all claims is respectfully requested. Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (200304388-1).

Respectfully submitted,

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